

**\*\*REVISED\*\***

ARIZONA HOUSE OF REPRESENTATIVES  
Forty-eighth Legislature - Second Regular Session

## MAJORITY CAUCUS CALENDAR

April 22, 2008

BLUE SHEET # 3 (concur/refuse)  
BLUE SHEET # 4 (concur/refuse)  
BLUE SHEET # 5 (concur/refuse)  
BLUE SHEET #7 (concur/refuse)

Bill Number	Short Title	Committee	Date	Action	
<b>Committee on Appropriations</b>					
<u>SB 1407</u>	PSPRS; deferred retirement; technical correction (APPROP S/E: ASRS; administration procedures)				
SPONSOR:	VERSCHOOR	APPROP	4/16	DPA/SE	(14-0-0-3-0)
<u>SB 1435</u>	appropriations; named claimants				
SPONSOR:	BURNS	APPROP	3/26	DP	(13-0-0-4-0)
<u>SB 1477</u>	elections; manual audit revisions (APPROP S/E: adult students; JTEDs)				
SPONSOR:	JOHNSON	APPROP	4/16	DPA/SE ON RECON	(8-6-1-2-0)
<b>Committee on Counties, Municipalities and Military Affairs</b>					
<u>SB 1024</u>	cities; campaign finance; website				
SPONSOR:	GRAY L	CMMA	4/1	DPA	(6-3-0-1-0)
<b>Committee on Commerce</b>					
<u>SB 1227</u>	certified public accountants; reciprocity privilege				
SPONSOR:	LEFF	COM	4/2	DP	(8-0-0-2-0)
<u>SB 1450</u>	regional attraction districts				
SPONSOR:	VERSCHOOR	COM	4/2	DP	(8-0-1-1-0)
<b>Committee on Education (K-12)</b>					
<u>SB 1216</u>	schools; biometric information; prohibition				
SPONSOR:	JOHNSON	ED	4/16	DP	(8-0-0-2-0)
<u>SB 1443</u>	SDRC; small school district adjustment				
SPONSOR:	GRAY L	ED	4/16	DP	(8-0-0-2-0)
<b>Committee on Government</b>					
<u>SB 1233</u>	state procurement code; Arizona preference (GOV S/E: arbitration; uniform act)				
SPONSOR:	WARING	GOV	4/8	DPA/SE	(6-0-0-2-0)
<b>Committee on Health</b>					
<u>SB 1150</u>	radiologist assistants (Now: radiologist assistants; licensure)				
SPONSOR:	O'HALLERAN	HEALTH	4/9	DPA	(7-3-0-0-0)
<u>SB 1223</u>	burden of proof; emergency treatment. (HEALTH S/E: insurance long-term care)				

SPONSOR: ALLEN HEALTH 4/9 DPA/SE (9-0-0-1-0)

**Committee on Human Services**

SB 1282 adult adoption

SPONSOR: MIRANDA HS 3/27 DP (5-1-0-4-0)

SB 1440 child dependency cases; performance standards

SPONSOR: LANDRUM TAYLOR HS 3/27 DP (7-0-0-3-0)

**Committee on Judiciary**

SB 1162 elections; registration information.  
(JUD S/E : condominiums; planned  
communities; legal actions)

SPONSOR: GRAY C JUD 4/10 DPA/SE (9-0-0-1-0)

SB 1355 attempted dangerous crimes against children

SPONSOR: PESQUIERA JUD 4/10 DP (9-0-0-1-0)

SCR 1042 Vietnam Veterans' Memorial Day  
(JUD S/E: marriage; one man; one woman)

SPONSOR: GOULD JUD 4/10 DPA/SE (6-4-0-0-0)  
JUD 4/21 DPA/SE ON REREF (6-3-0-1-0)

**Committee on Public Institutions and Retirement**

SB 1489 global security risks; investments; prohibition  
(Now: divestments; terrorism countries; contract prohibition)

SPONSOR: VERSCHOOR PIR 3/31 DP (8-0-1-1-0)

**Committee on Water and Agriculture**

SB 1168 department of agriculture omnibus act

SPONSOR: ARZBERGER WA 4/10 DP (7-0-0-3-0)



# HOUSE OF REPRESENTATIVES

SB 1407

PSPRS; deferred retirement; technical correction

Sponsor: Senator Verschoor

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DPA

S/E Committee on Appropriations

X Caucus and COW

House Engrossed

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SB 1407 makes technical corrections to deferred retirement under the Public Safety Personnel Retirement System.

**Summary of the proposed strike-everything amendment to SB 1407:**

The proposed strike-everything amendment to SB1407 is an emergency measure that modifies the definition of *current annual compensation*, as it pertains to the purchase of credited service. It also exempts the ASRS from the Revised Arizona Unclaimed Property Act, establishes guidelines to declare unclaimed monies abandoned, and appropriates \$137,607 from the ASRS fund to implement the act. Finally, it adds a new section of law that delineates how voluntary and mandatory group transfers out of ASRS to other defined benefit plans affect Long-Term Disability benefits, retirement benefits, and Payroll Deduction Agreements.

**History**

***The Arizona State Retirement System***

The Arizona State Retirement System (ASRS) was created in 1953 to provide retirement benefits to the employees of state, counties and municipalities, colleges and universities, and other political subdivisions in Arizona, including Arizona teachers. ASRS benefits are funded by member and employer contributions and by earnings on investments. The present contribution rate is 9.6%.

The ASRS has three funds, Retirement, Health Benefit, and Long Term Disability, to which the employee and employer contributions are distributed according to actuarially determined contribution rates. Currently, ASRS serves more than 750 employers and has more than 487,000 active, inactive, disabled, and retired members. Generally, all employees of an employer member who are engaged to work at least 20 weeks in a fiscal year and at least 20 hours per week qualify for membership in the retirement plan. Membership is mandatory for those employees who meet the eligibility criteria. Private and non-profit employers are not eligible for membership.

A normal retirement date currently occurs under the earliest of the following circumstances: a) at age 65; b) at age 62 with 10 or more years of credited service; or c) at any combination of years of credited service and age, totaling 80 points, or Rule of 80. At present, an ASRS member's normal retirement benefit is calculated:

**Total Credited Service    X    Graded Multiplier    X    Average Monthly Compensation**

This average monthly compensation, for a member who was hired after January 1, 1984, is the member's highest salary during a period of 36 consecutive months within the last 120 months of credited service.

The Arizona Constitution contains a prohibition against diminishing established benefits of members.

### ***Unclaimed Property***

In addition, an employee who leaves their position before retirement may elect to leave the contributions on account with the ASRS. The account continues to earn interest until the refund is obtained at a later date. Benefits that are not claimed are subject to the Revised Arizona Unclaimed Property Act.

Under the Revised Arizona Unclaimed Property Act, any monies left in a retirement account or benefit plan are presumed abandoned three years after the statutorily prescribed date of distribution. As holder of the property, ASRS is required to report and pay the property to the Department of Revenue.

### ***Service Credit***

Current law permits eligible members of the ASRS to elect to purchase military and Presidential Call-up service as well as forfeited and other public service credit. Arizona laws of 1996 expanded the credited service purchase options available to active members of the ASRS. Currently, a member who is actively contributing to the ASRS or currently receiving Long Term Disability benefits as an ASRS member, may buy credited service time.

Under current law, the cost to purchase service is determined on the basis of the member's Actuarial Present Value which defines the current value of a member's future retirement benefit, compared to the value of the benefit with the additional service years included in the calculation. The member pays the difference between these two values, thereby fully funding their future benefit. The cost is determined by individual calculations, factoring in a member's years of service, age, current annual compensation and amount of service credit purchased.

Employees that opt to purchase their service credit must do so through one of the prescribed methods of payment, which includes a Payroll Deduction Authorization (PDA). A PDA is a method of payment by which the employee irrevocably agrees to purchase a specified amount of service credit through payroll deductions over an agreed period of time, but not to exceed a twenty year period. Current law also permits employees to make an intersystem transfer of service credits when transferring from ASRS to another state defined benefit retirement plan. However, in the event that an unfunded liability is created by the transfer of service credits from one retirement system to another, current law requires that the employee either pay the difference or accept a reduced transfer of credits.

## **Provisions**

### ***Plan Administration***

- Clarifies that a member who purchases previously forfeited service credit is subject to the benefit structure and duties in place when the person again becomes a member.
- Modifies the definition of *current annual compensation*, as it pertains to the purchase of credited service, by requiring that the typical pay period be determined by using the five pay

periods prior to the member's request, dropping the highest and lowest, and averaging the remaining three.

- Requires the ASRS to recover overpaid money by reducing a benefit owed to any member, beneficiary, or alternate payee.
- Clarifies that the salary calculations used for military and other public service purchases are also used for leave of absence purchases.
- Grants the Board rulemaking authority over the Plan, the LTD Program, and Transfers.

#### ***Unclaimed Property***

- Exempts the ASRS from unclaimed property procedures in the Revised Arizona Unclaimed Property Act, to take effect June 30, 2009.
- Provides that monies are presumed abandoned if the owner does not communicate with ASRS after a period of three years after the IRS' minimum date of distribution (age 70.5).
- Clarifies the definitions of "Apparent Owner" and "Owner" to match with the Unclaimed Property statutes.
- Stipulates that interest ceases to accrue on the monies on the date the monies are presumed abandoned.
- Requires ASRS to notify the apparent owner beginning five years before the IRS minimum distribution date and for three years thereafter.
- Requires ASRS to make a good faith attempt to locate the apparent owner if the letter is returned.
- Authorizes ASRS to use a people search service if the amount of the unclaimed monies exceeds \$300 and requires any fee incurred to be paid from the administration account.
- Requires ASRS to pay the apparent owner the monies or benefit in the event that the owner establishes entitlement.
- Requires the ASRS to annually send a notice to a survivor-apparent owner beginning in the year of the 5th anniversary of the member's death and for three years thereafter.
- Requires the ASRS to pay the money or a benefit to a person who returns to claim previously abandoned money plus interest, if applicable.
- Appropriates \$137,607 from the ASRS administration account. The appropriation is non-lapsing.

#### ***Transfers***

##### **Voluntary Transfers**

- *Long-term Disability (LTD) Recipients*
  - Terminates Long Term Disability (LTD) payments for any member who elects to transfer to a new retirement system.
- *ASRS Retirement Recipients*
  - Terminates retirement payments for any member who elects to transfer to a new retirement system.
  - Transfers any remaining assets to new retirement system

- *Payroll Deduction Agreements (PDA)*
  - Provides that ASRS will transfer assets and service credits already accrued up to the date of the joinder agreement within 90 days of the effective date of the joinder agreement to the new retirement system.
  - States that PDA payments continue to be made to ASRS.
- Provides that at termination and at the employee's election, either:
  - ASRS will transfer all assets and service credit to the other retirement system and the employee makes up the difference (unless employer is specified in joinder statute). Allows employee 30 days from termination to elect this option; or
  - ASRS will refund the assets to the employee. Allows employee 60 days from the date of termination to submit the refund application.

### **Mandatory Transfers**

- *Long-term Disability (LTD) Recipients*
  - Requires that the member remain with ASRS.
- *ASRS Retirement Recipients*
  - Requires that the member remains with ASRS.
- *Payroll Deduction Agreements (PDA)*
  - Provides that ASRS will transfer assets and service credits already accrued up to the date of the joinder agreement within 90 days of the effective date of the joinder agreement.
  - Provides that PDA payments continue to be made to ASRS.
- Provides that at termination and at the employee's election, either:
  - ASRS will transfer all assets and service credit to the other retirement system and the employee makes up the difference (unless employer is specified in joinder statute). Allows employee 30 days from termination to elect this option.
  - Member retains inactive membership in ASRS (member can at any time apply for a refund or a monthly retirement benefit, if eligible).

### **Miscellaneous**

- Provides for emergency enactment, except the unclaimed property provisions which are effective July 1, 2009.
- Makes other technical and conforming changes.

### **Amendments**

#### **Appropriations**

**The strike-everything amendment was adopted.**



# HOUSE OF REPRESENTATIVES

## SB 1435

appropriations; named claimants

Sponsor: Senator Burns

DP Committee on Appropriations

X Caucus and COW

House Engrossed

SB 1435 appropriates \$179,821.19 to the Arizona Department of Administration (ADOA) for payment of various claims made against state agencies during FY 2004-05 and FY 2005-06.

### History

SB 1435 is the annual relief for named claimants bill, reflecting ADOA's request to the Legislature for an appropriation of monies to pay claims made against state agencies. These claims were made by individuals and organizations that provided goods and services to those agencies in a previous fiscal year but have yet to receive payment. Each year, a number of claims made against state agencies remain unpaid due to inadequate documentation, late filings and searches for third party liability. In order to pay claims from previous fiscal years, the legislature must appropriate monies to ADOA.

### Provisions

- Appropriates the following amounts to ADOA from the state General Fund for claims made against the following agencies (originating fund amounts are transferred to the GF for appropriation):

Claims Against	Originating Fund	Claims Amount
Arizona Department of Administration	Automation Operations Fund	1,654.08
Arizona Department of Administration	Risk Management Fund	400.00
Corporation Commission	Public Access Fund	600.63
Department of Corrections	General Fund	91,571.51
Department of Juvenile Corrections	General Fund	2,740.14
Department of Environmental Quality	General Fund	659.06
Department of Environmental Quality	Indirect Cost Fund	932.13
AHCCCS	General Fund	61,190.35
AHCCCS	AHCCCS Fund	15,832.73
AHCCCS	Children's Health Insurance Program Fund	1,287.30
Department of Health Services	Arizona State Hospital Fund	482.14
Department of Health Services	General Fund	1,644.67

Claims Against	Originating Fund	Claims Amount
Industrial Commission of Arizona	Industrial Commission Administrative Fund	306.46
Board of Respiratory Care Examiners	Board of Respiratory Care Examiners Fund	519.99





# HOUSE OF REPRESENTATIVES

SB 1477

elections; manual audit revisions

Sponsors: Senators Johnson: Gray L

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W/D Committee on Judiciary

DPA

S/E Committee on Appropriations

X Caucus and COW

House Engrossed

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SB 1477 changes election law with regard to the testing of automatic tabulating equipment and hand counting procedures.

**Summary of the proposed strike-everything amendment to SB 1477:**

The proposed strike-everything amendment to SB 1477 permits adult students to attend vocational programs in a Joint Technological Education District (JTED) during school hours.

**History**

Laws 1990, Chapter 248, Section 1 allowed school districts to form JTEDs to improve vocational education offerings and serve students more cost-efficiently. In order to form a JTED, interested school districts are required to study the need to establish a joint district and initiate a plan for the establishment and operation of the district, including a proposed budget. The school district governing boards must submit the study and plan to the State Board for Vocational and Technological Education (now the State Board of Education, SBE). If SBE determines that the plan submitted for the JTED has met statutory requirements, the proposal is submitted to the qualified electors of the school district seeking to become a part of the joint district at the next general election. If approved by the voters, the school district becomes part of the JTED at the beginning of the next fiscal year. Currently, there are eleven JTEDs in Arizona.

Arizona Revised Statutes (A.R.S.) § 15-393 defines a JTED student as any person enrolled in the JTED without regard to the person's age or high school graduation status with some exceptions. A student who is over the age of twenty-two cannot be included in the student count of a JTED for the purpose of determining the JTED's budget, including the calculation of state aid. Additionally, a JTED may collect tuition for adult students.

A.R.S. § 15-782.02 prohibits adult students from attending vocational programs in high school buildings during regular school hours.

**Provisions**

- Allows a person over the age of twenty-two to attend vocational programs in a JTED during school hours if the program has additional student capacity after the enrollment of regular pupils.
- Stipulates that adult students can only participate in JTED programs for the purpose of skill retraining or skill upgrading and prohibits adult students from earning college-level credit for a JTED course.

Amendments

*Appropriations*

The strike-everything amendment was adopted.



# HOUSE OF REPRESENTATIVES

SB 1024

cities; campaign finance; website

Sponsor: Senator Gray L

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**DPA** Committee on Counties, Municipalities and Military Affairs

**X** Caucus and COW

House Engrossed

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**\*REVISED\***

SB 1024 requires the Secretary of State (SOS) and counties municipalities that operate websites to post campaign finance information online.

## **History**

A.R.S. Section 16-901 defines a *political committee* as a candidate or any association or combination of persons that is organized, conducted or combined for the purpose of influencing the result of any election or to determine whether an individual will become a candidate for election in this state or a political subdivision of the state.

Pursuant to A.R.S. Section 16-913, each political committee is required to file campaign finance reports setting forth the committee's receipts and disbursements. In calendar years with regularly scheduled elections at which any candidate, measure, question or proposition appears or may appear on the ballot, the political committee is required to file each of the following campaign finance reports:

- A report covering the period beginning January 1 through May 31, filed no later than June 30.
- A preelection report, filed 12 days before any election and complete through the 20th day before the election.
- A postelection report, filed 30 days after any election and which complete through the 20th day after the election.

In any other calendar year, the political committee is required to file a report covering the period beginning twenty-one days after the date of the election in the preceding calendar year through December 31 of the nonelection year filed no later than January 31 of the following calendar year.

Standing political committees are required to file reports with the SOS who is required to make the reports available to the public on the internet and on paper by request.

## **Provisions**

- Requires the SOS and counties and municipalities that operate websites to post campaign finance information on their website in a format that is viewable by the public.

## **Amendments**

### **Counties, Municipalities and Military Affairs**

- Exempts all reports where less than \$500 is spent from the posting requirements.
- Exempts counties of under 100,000 and cities of under 2,500 from the posting requirements.



# HOUSE OF REPRESENTATIVES

SB 1227

certified public accountants; reciprocity privilege

Sponsor: Senator Leff

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DP Committee on Commerce

X Caucus and COW

House Engrossed

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SB 1227 modifies the requirements for out-of-state certified public accountants to qualify and exercise the *limited reciprocity privilege* to practice accountancy in Arizona. The bill also makes several changes to various state accountancy laws.

## History

The Arizona State Board of Accountancy (Board) licenses and regulates Certified Public Accountants (CPAs) and Public Accountants (PAs) doing business in the State of Arizona. Its primary duty as mandated by statute is “to protect the public from unlawful, incompetent, unqualified or unprofessional certified public accounts or public accountants through certification, regulation and rehabilitation.” Created by statute in 1933, the Board currently oversees more than 9,500 individual CPAs and 2,000 firms throughout Arizona.

The Board consists of seven members; five CPAs and two public members, who are not CPAs but have demonstrable, extensive, and practical experience in accounting. Board members are appointed by the Governor for a term of five years, beginning and ending on July 3.

Upon application, the Board is required to issue a certificate to anyone who meets the following criteria:

1. Is able to take the uniform CPA examination;
2. Obtains a passing grade in each of the subjects in the Uniform Certified Public Accountant Examination (UCPAE);
3. Is at least 18 years old;
4. Is of good moral character; and,
5. Has not engaged in misconduct that would prove grounds to revoke or suspend certification.

In addition, the applicant must have been employed for at least one year in an accountancy-related manner either before or after passing each section of the examinations, and present satisfactory evidence to the Board from an accredited institution or university that meets education requirements with regard to accounting coursework.

The concept of “mobility” within the accounting profession refers to the ability of a licensee to gain a practice privilege outside his or her principal place of business without the requirement of licensure. The mobility issue has been addressed through the concept of substantial equivalency and limited reciprocity, developed by the American Institute of Certified Public Accountants (AICPA) and the National Association of State Boards of Accountancy as part of the Uniform

Accountancy Act. According to the AICPA, 34 jurisdictions have adopted laws on substantial equivalency.

In Arizona, the Board currently may grant limited reciprocity permission to a CPA licensed by another state or foreign country who notifies the Board; is currently licensed in a substantially equivalent jurisdiction; affirms by affidavit good standing with the licensing jurisdiction; and, pays an application fee. In addition, current law provides for out-of-state CPAs to practice in Arizona for up to 60 calendar days without complying with the limited reciprocity requirements if the person either 1) acts in the capacity of a partner, director, member or employee of a firm that is registered to practice public accounting in this state; or notifies the client in writing that they are not under the regulatory jurisdiction of the Board; or is sponsored by an individual or firm that agrees in writing to be liable for any damages caused by, resulting from, or attributable to their acts. This 60-day provision in statute is commonly referred to as “incidental practice.”

Substantial equivalency criteria is established in statute and those requirements generally center on an individual’s experience, education, and passing the UCPAE. The Board currently has determined 44 jurisdictions to be substantially equivalent to Arizona. SB 1227 makes no changes to current law regarding substantial equivalency.

## **Provisions**

### ***Definitions***

#### **[§32-701]**

- Defines *limited reciprocity privilege*, *principal place of business*, and *reciprocity*. *Limited reciprocity privilege* means the permission to practice as a certified public accountant in Arizona for an individual whose principal place of business is outside of the state, under the applicable proposed provisions to law.
- Modifies the definition of *restricted financial services* to include the preparation and issuance of audit reports required by the Sarbanes-Oxley Act of 2002 or the rules of the Securities and Exchange Commission.
- Replaces references to “person” to “individual” or “individual or firm” throughout multiple sections of accountancy laws.

### ***Limited Reciprocity Privilege***

#### **[§32-725]**

- Modifies current law on the Board’s authority to grant limited reciprocity to individuals who are certified or licensed as a CPA or PA in another state or foreign country, by inserting similar qualifications under a revised system of *limited reciprocity privilege*. Under the *limited reciprocity privilege*, some notable differences from current law are:
  - CPAs would not have to notify the Board of their intent to enter the state, affirm by affidavit good standing with the licensing jurisdiction, nor pay an application fee.
  - Removal of the 12-month cap provision on CPAs who are licensed by the Board to practice in Arizona under limited reciprocity, as well as the six-month extension.
  - Removal of the 60-day limitation on out-of-state CPAs to practice in Arizona without notification to the Board (incidental practice).

***Requirements of Limited Reciprocity Privilege:***

- States an individual qualifies for the limited reciprocity privilege, if the individual meets all of the following requirements:
  - Has a principal place of business outside Arizona;
  - Is not the subject of suspension or revocation of certificate, nor relinquishment;
  - Has a valid registration, certificate, or license as a CPA issued by another state; and,
  - Is licensed in a state that requires on or before December 31, 2011, all of the following: at least 150 semester hours of college education, including a baccalaureate degree from an accredited institution; a passing grade on the UCPAE; and, at least one year of verifiable experience in accounting; or, meets Arizona's substantial equivalency for education and experience requirements.
- Considers an individual who qualifies for limited reciprocity privilege to have the qualifications that are substantially equivalent to Arizona and, therefore, can exercise the privileges bestowed onto Arizona licensed and certified accountants without having to register with the Board.
- Allows an individual who qualifies for the *limited reciprocity privilege* to use the title of CPA or Certified Public Accountant. In addition, allows such an individual to practice accounting in person, by mail, telephone, or electronic means, without notice, fee, or other submission to the Board.
- Stipulates that an individual exercising the *limited reciprocity privilege* in Arizona must comply with Arizona's statutes and rules on accounting, including those pertaining to investigations or other proceedings by the Board, and to cease offering accounting practices if the requirements of privilege are no longer being satisfied. The individual exercising the privilege assumes the burden of demonstrating the requirements have been satisfied.
- Stipulates that an individual who exercises the *limited reciprocity privilege* is subject to the personal and subject matter jurisdiction of the Board, including the Board's power to investigate complaints and take disciplinary action. Also extends the Board's authority to contact other state boards and the individual directly for service in any action or proceeding against the individual.
- Allows a CPA, who is licensed, registered, or certified in another state or foreign country, has an out-of-state principle business, and does not qualify for the *limited reciprocity privilege*, to provide the following services:
  - Expert witness services.
  - Teaching or lecturing.
  - Other services determined by the Board.
- Allows a partnership, corporation, or other entity formed under the laws of another state to use the title of CPA or Certified Public Accountant in Arizona to practice accounting, including restricted financial services, without having to register with the Board, if the partnership, corporation, or other entity satisfies the following:
  - is owned by or employs an individual who is a limited reciprocity holder;
  - is in good standing with the laws of the jurisdiction in its principal place of business, which must be a recognized place for the practice of accounting by the partnership, corporation, or other entity; and,
  - does not have, nor represents to have, an office in Arizona.

***Board Membership***  
**[Session Law, Section 11 of the Bill]**

- Modifies Board membership in the following manner:
  - Requires one of the public members appointed to the Board to serve a three-year term, beginning July 3, 2009. That appointee also may be reappointed, and would then be eligible for a full five-year term.
  - Requires the Governor to make all subsequent appointments as prescribed by current law.

***Miscellaneous Provisions***

***Board Powers and Duties [§32-703]***

- Broadens the registrant's obligation to the Board to report *the imposition of any discipline* affecting the registrant's right to practice before the IRS, any other state board of accountancy, or the Public Company Accounting Oversight Board. Current law requires registrants to report any *suspension or revocation* of the right to practice before the Federal Securities and Exchange Commission or other government agencies.

***CPA Qualifications for Certification [§32-721]***

- Removes several outdated statutes pertaining to an applicant's education and experience requirements for certification.

***Certification Fee [§32-729]***

- Removes the specification that the Board collect a uniform fee for certification for those exercising the limited reciprocity in Arizona.

***Certificate and Registration Cancellation [§32-730]***

- Combines a *complaint filed with the Board* to other pending disciplinary proceedings as the conditions that preclude a CPA or PA (who is not actively engaged in accounting and does not want to renew or place the certificate on inactive status) from canceling their certificate by written request to the Board.
- Permits an accounting firm that does not wish to renew its registration with the Board to cancel its registration, unless a complaint has been filed with the Board or disciplinary proceedings are pending against the firm.

***Suspension of Firm's Certificate [§32-742]***

- Stipulates that a firm's registration expires within 12 months of the date of suspension for non-payment of fees, if the firm fails to reinstate its registration within that time period. Current law requires firms to register biennially with the Board and pay a registration fee of \$100 to \$300.

***Unlawful Use of Designation or Abbreviation [§32-747]***

- Includes a *limited reciprocity privilege* holder among Arizona licensed CPAs and PAs as authorized users of professional accounting titles (i.e. CPA, PA, certified public accountant, etc.).
- Exempts an individual or firm from the unlawful use of certain accounting-related titles (e.g. enrolled accountant, registered accountant, certified tax accountant, etc.) if the individual or firm has received Board certification to practice in Arizona or the individual or firm is permitted to practice under the *limited reciprocity privilege* holder.



# HOUSE OF REPRESENTATIVES

SB 1450

regional attraction districts

Sponsors: Senators Verschoor, Bee, Blendu, et al

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**DP** Committee on Commerce

**X** Caucus and COW

House Engrossed

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Permits the formation of a Regional Attraction District to issue up to \$750 million in negotiable revenue bonds and levy up to 10 percent excise tax on certain business activity in the District.

## **History**

Laws 1994, Chapter 313, enacted a funding mechanism for cities and counties to build theme parks by allowing them to borrow money and issue bonds to finance the construction of public infrastructure owned by the county that was reasonably necessary to complete the construction of a theme park. The legislation further required the theme park be nonathletic in nature. A theme park excise tax was established using certain transaction privilege tax (TPT) revenues as a distribution base for the theme park funds.

Laws 1999, Chapter 165, repealed the counties' authority to borrow money and issue bonds to finance the construction of theme parks. It also limited the ability of a city or town to issue bonds to finance the construction of a theme park to only those parks with a memorandum of understanding between the city or town and the Arizona Department of Commerce commenced prior to January 1, 1999.

Laws 2005, Chapter 248, established a joint Theme Park and Vehicle Support Facility District in a city with a population greater than 1,000,000 and a county population greater than 125,000 but less than 150,000. The District is required to levy a TPT at a rate of 9 percent on business activity within the District and issue \$1 billion in negotiable revenue bonds to provide sufficient monies for theme park and vehicle support facility purposes.

## **Provisions**

- Adds Title 48, Chapter 38, Arizona Revised Statutes, titled Regional Attraction Districts.

### ***Formation of Regional Attraction District***

- Permits the governing body of a city with a population of at least 10,000 but fewer than 20,000 persons located in a county with at least 250,000 but fewer than 350,000 persons to establish a District upon petition of the owners of at least 200 acres of real property in the proposed district.
- Requires population statistics be determined by the most recent data produced by the Arizona Department of Economic Security.



- Directs proponents of the District to submit a petition with a \$50,000 refundable cash bond to the governing body of the city. Requires the petition to show the District's geographical boundaries with the site of the Venue located on a minimum 200 and maximum 950 acres.
- Mandates the city hold a public hearing 60 to 90 days after receipt of the petition. Outlines specific requirements for publishing notice in a newspaper of general circulation in the pertinent city. Directs the governing body to permit public testimony and adopt a resolution to establish the District if it serves the public interest.
- Prohibits a city from establishing more than one District.
- Creates the District as a corporate and political body having all the rights, powers and immunities of a municipal corporation, except as otherwise stated in provisions of this bill.
- Designates the District as a tax-levying public improvement district as authorized by the Arizona Constitution.
- Regards the District as performing a governmental function. Exempts from State and local income tax and property tax: property acquired or constructed by the District; expenses for maintenance and care of the property; and, monies derived from their operations.

***District Board of Directors***

- Outlines membership of the board of directors as follows:
  - Two members of the city's governing body.
  - Three members of the general public who reside in Arizona, one of whom resides in the county where the District is located (appointed by Governor; President of Senate; Speaker of House of Representatives). Requires members to have experience/background in finance, real estate management, tourism or entertainment marketing or promotion.
- Designates 6-year terms and makes board members ineligible for compensation for services.

***District Board of Directors Administrative and Operational Powers***

- Outlines *permissive* administrative and operational powers and duties as necessary:
  - Adopt and use a corporate seal.
  - Sue and be sued.
  - Enter into necessary contracts, including intergovernmental agreements for administrative staff support, meeting accommodations and users of facilities at the Venue.
  - Lawfully acquire, operate, maintain and dispose of real and personal property, except through eminent domain.
  - Retain necessary legal counsel and consultants.
  - Lease and manage facilities as needed.
  - Employ and contract with appropriate professional and service personnel.
  - Enter into capital and operating finance agreements.
- Prescribes mandatory administrative and operational duties:
  - Appoint a chairman and designate a fiscal agent to manage District monies.

- Acquire, finance, manage, operate, maintain and control properties and interests owned and controlled by the District.
  - Record all proceedings according to open meeting and open public records laws.
  - Adopt administrative rules.
  - Contract for professional services, including a facility management company, with the selection pursuant to competitive sealed bids.
  - Abide by statutory conflict of interest laws.
  - Negotiate, enter into contracts and agreements for construction, management, use, operations and improvements of the Venue, its facilities and occupants.
  - Secure a themed design for the Venue.
  - Prepare the District's annual operating budget, construction budgets and schedules and arrange capital financing as needed.
  - Pledge/use necessary excise tax revenues to secure bonding or other financial obligations.
- Subject to laws governing the Department of Liquor Licenses and Control, authorizes the board to regulate alcoholic beverages on property the District owns, leases or subleases.
  - Pursuant to current law, prohibits gambling within the geographic boundaries of the District.
  - Prohibits the assessment of development or impact fees.

***Performance and Financial Audits and Reports***

- Requires the Auditor General (OAG) to conduct a performance audit of the District and its operations and submit a copy to the board of directors and the Joint Legislative Audit Committee (JLAC) 35 years after the date of the initial issuance of bonds.
- Directs copies of the report be submitted to the Secretary of State, the State Library, Archives and Public Records and the director of Legislative Council.
- Stipulates the District terminates 5 years after delivery of the audit to JLAC.
- Prescribes duties for the board of directors to wrap up their affairs and liquidate District business. Further, the board must sell all property and other assets to the highest bidder at public auction, pay off any outstanding debt and transfer all remaining proceeds to the State Treasurer for deposit into the State General Fund.
- Repeals all relevant laws and requires the board of directors to notify the director of Legislative Council of the precise repeal date.
- Requires an annual financial audit by an independent CPA within 120 days after the end of each fiscal year. Establishes a process for OAG review and any subsequent audits as necessary. Authorizes payment for negotiated and approved costs.
- Mandates quarterly reports of all District activities be transmitted to the Governor, Legislature and JLBC. Authorizes the chairman of the board to appear before JLBC as requested.

***Regional Attraction Venue***

- Requires the District to authorize the Venue's construction, financing, use and all other operations in the participating city. As such, the District owns its entire constructed infrastructure, subject only to lawful liens or other security interests. Permits the District to construct portions of the Venue on real property it owns or leases.
- Subjects the District to Procurement Code requirements concerning construction activities, but permits use of alternative systems and procedures such as design-build. Defines terms.

***Owners of Real Property***

- Permits the District to locate on real property leased from one or more public or private property owners. Outlines specific obligations of the property owner.
- Requires the owner to maintain insurance coverage. Further, directs the owner to indemnify and hold the District harmless from any liability for negligent or intentional acts or omissions of the owner in connection with the Venue.

***Annual Budget and General Fund***

- Requires a public hearing to adopt a District annual budget with factors as outlined and permits the board of directors to amend the budget for good cause.
- Authorizes the District to maintain a general fund (GF) to deposit all revenues and expend monies in the fund as currently provided by laws for handling public funds. Outlines requirements if the District's investments are insufficient to meet the obligations.
- Mandates a Construction Fund within the GF and outlines authorized uses, including acquisition of land and construction of the Venue.
- Creates a Bond Proceeds Account within the GF consisting of monies received from the sale of bonds. The District may use the monies solely for Venue purposes.
- Establishes a Debt Service Account within the GF consisting of dedicated monies to repay the bonds and pay the costs and related expenses for redeeming the bonds.

***Excise, Property and Income Tax***

- Authorizes the District to impose an excise tax on business activity within the District at a maximum 10 percent of the gross proceeds of sales or gross income derived from the business, including admission and user fees. This tax is in addition to any state, county or city-imposed transaction privilege and use tax.
- In lieu of property tax, permits voluntary payment to taxing jurisdictions on the valuation of the property located *outside* the District's Venue area as determined by the county assessor. Outlines specific requirements.

***Revenue Bonds***

- Permits a District to issue revenue bonds in a principal amount not to exceed \$750 million as necessary to provide sufficient monies for Venue purposes. Bonds are payable only

according to their terms and are obligations of the District. Payment of the bonds is enforceable only out of monies or assets specifically pledged or assigned.

- States the bonds are not general, special or other obligations of the State, county or city in which the District is located. Additionally, asserts board members and those who execute the bonds are not personally liable for bond payments.
- Limits retail sales of tangible personal property to not more than one quarter of the capital facilities financed with bond proceeds. *Retail sales* excludes the sale of food and beverages for consumption on the Venue premises, the distribution of free promotional items and sales to Venue employees.
- Requires the board to authorize the bonds by resolution and prescribes content. Deems bonds as mature within 30 years after their date of issuance, and payable within 40 years after their date of initial issue (including any refinanced or refunding bonds).
- Mandates any publicly offered bonds be fully insured by a financial institution rated “AA” or better by a nationally recognized rating agency.
- Prohibits the board from issuing any bonds unless it receives at least \$100 million in legally enforceable financial commitments from private, nongovernmental entities for Venue purposes. Bond monies may not be used to repay the privately committed monies.
- Directs the board to issue the bonds in the amount and number provided in the resolution. Outlines the process and procedures for notice, sales and deposit of bond proceeds.
- Outlines procedures for board action to protect the principal and interest on the bonds.
- Validates and binds each pledge concerning revenue bonds from the time each is made. Automatically and immediately subjects a pledge to a lien without further action when monies pledged to the bond holders are received by the district for placement in the Debt Service Account.
- Permits the board to purchase bonds for cancellation, and outlines requirements.
- Describes the use of surplus monies in the Bond Proceeds Account Fund, including the requirement for all interest and monies otherwise derived from the investment of the monies be credited back to the fund.
- Outlines the authorized investment and reinvestment of monies in the Bond Proceeds Account and the Debt Service Account funds. The purchase of the securities must be made by the District fiscal agent by resolution of the board of directors. The fiscal agent acts as custodian of all purchased securities.
- Requires monies derived from selling bonds, pledged or assigned to trust or existing in trust for the benefit of the bond holders be deposited into a federally insured financial institution designated by the board. Monies must be disbursed as directed by the board and according to the terms and agreements with the bond holders.

- Establishes the bonds as fully negotiable within the meaning of the Uniform Commercial Code, subject to registration requirements. Stipulates the bonds, their transfer and income derived from the bonds are free from taxation in this State.
- Includes a provision in which the State pledges and agrees not to limit, alter or impair the rights of the District regarding bond monies, bond holders, and all associated costs and expenses. Authorizes the pledge to be included in the board's resolution to secure its bonds.
- Allows the board to submit any bonds to legal counsel, who must examine and pass on the validity of the bonds and the regularity of the proceedings. If the proceedings comply and if the bonds constitute binding and legal obligations of the District, the counsel must certify on the back of each bond that the bond is issued according to law and the interest on the bonds will be exempt from State taxes.
- Requires the bonds to state their regular issuance and with the legal opinion, constitutes prima facie evidence of the legality and validity of the bonds. Ensures the bonds are incontestable by the State or District.
- Permits a county board of supervisors to require a District to reimburse the county for the costs associated with the services provided. The reimbursement assessments for the following fiscal year must be published by June 1 of the preceding fiscal year.
- Terminates the District and repeals the provisions of the bill if the board fails to issue any bonds by January 1, 2016.



# HOUSE OF REPRESENTATIVES

SB 1216

schools; biometric information; prohibition

Sponsors: Senators Johnson, Blendu; Gray C, et al

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**DP** Committee on Education (K-12)

**X** Caucus and COW

House Engrossed

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SB 1216 prohibits school districts and charter schools from collecting a pupil's biometric information without written permission from the pupil's parent.

## History

Biometric technologies are those which automatically measure people's physiological or behavioral characteristics. Examples include automatic fingerprint identification, iris and retina scanning, face recognition, and hand geometry.

There are two approaches to recording an individual's biometric characteristics. The first is to record a complete image of a face or a finger, as in a passport photograph or a fingerprint. The second is to take measurements that adequately capture the uniqueness of the source but do not capture a complete image and therefore do not allow the original to be reconstructed from the data. The second approach is the one that is typically being used in schools' biometric technology systems, specifically in the implementation of school lunch programs.

Three states have set statutory conditions for the fingerprinting of children. In Illinois, school districts are not permitted to sell, lease, or disclose biometric information unless the parent or guardian consents or if the disclosure is required by court order. In Iowa and Michigan, under each state's Child Identification and Protection Act (Acts), a governmental unit, including a school district, is prohibited from fingerprinting children with some limited exceptions. Specifically, the Acts prohibit fingerprinting of children except in the following circumstances: (a) if authorized by a parent or guardian in case a child becomes a runaway or is missing, (b) if the child is arrested, (c) if the fingerprinting is required by court order, or (d) with the parent's or guardian's permission to aid in a specific criminal investigation.

The Arizona Department of Education (ADE) requires a school in a school district or a charter school to use some point of service in their school lunch programs, but does not keep track of what type of point of service each school uses. Some of the points of service that are currently in use include swipe cards, punch cards, and students typing in their name before they receive lunch. Under the National Lunch Act (NLA), no school may engage in physical segregation of or any other discrimination against any child eligible for a free or reduced lunch. The NLA also stipulates that there must be no overt identification of any child by special tokens or tickets, announced or published list of names, or by other means.

**Provisions**

- Prohibits school districts and charter schools from collecting a pupil's biometric information without written parental permission.
- Defines *biometric information* as any information collected through an identification process based on unique behavioral or physiological characteristics, including:
  - Fingerprints.
  - Hand geometry.
  - Voice or facial recognition.
  - Iris or retinal scans.



# HOUSE OF REPRESENTATIVES

SB 1443

SDRC; small school district adjustment

Sponsor: Senator Gray L

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**DP** Committee on Education (K-12)

**X** Caucus and COW

House Engrossed

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SB 1443 pushes back the effective operational date for a school district that has unified as a result of the School District Redistricting Commission (SDRC) plan by one fiscal year and allows a school district that unified as a result of the SDRC plan to budget for a small school district adjustment for four years if at least one of the school districts in the newly unified districts was eligible for the adjustment prior to unification.

## **History**

### ***School District Redistricting***

Laws 2005, Chapter 191, established the 13-member SDRC, charged with reviewing all current common school districts that are not a part of a unified school district to consider combining the common school districts into a new unified school district or combining a common school district with a union high school district to create a unified school district. Additionally, the SDRC could determine that an existing common school district should remain a common school district. Currently, there are 108 elementary school districts, 15 union high school districts, and 95 unified school districts in Arizona.

The SDRC submitted a preliminary report on proposed school district unification to the governing boards of affected school districts on April 30, 2007. Of the 92 school districts contacted, 70 responded to the SDRC with feedback on the proposed plans. The SDRC's final report was submitted to the Governor on December 21, 2007 and signed by the Governor on January 8, 2008. The SDRC concluded that 76 districts would be affected by unification, resulting in 27 new districts.

The question of unification for each school district affected by a unification plan must be placed on the ballot at the November 8, 2008 general election by the appropriate county school superintendent. In order for a unification plan to be enacted, a majority of the voters in each of the affected districts must approve the plan. If approved, the new unified school district becomes operational at the beginning of the next fiscal year (FY 2009-10). If a majority of voters in any of the affected school districts do not approve the unification plan, the plan is void.

### ***Small School Districts***

Arizona Revised Statutes (A.R.S.) § 15-949, provides small school districts, with a student count of fewer than 125 elementary students and/or 100 high school students, the authority to increase their budget limits based on need through a property tax levy without voter approval. The amount of need is determined by the school district governing board. The small school



adjustment is equal to the difference between the amount budgeted by the school district and the general budget limit applied to school district with higher student counts than small school districts. If a small school district exceeds the 125 elementary and/or 100 high school student count, the district may phase down the small school district adjustment with voter approval. The phase down is valid for a maximum of five years and is void when the district reaches 154 elementary and/or 176 high school students.

A.R.S. § 15-943 provides a small school weight to under the school finance formula for school districts with a student count of fewer than 600 elementary students and/or high school students. As the student count decreases below 600, the weight for each student increases from 1.158 for elementary and 1.268 for high school to 1.399 and 1.599, respectively. Additionally, small school districts may also be eligible for higher weights if they meet the definition of a small isolated school provided in A.R.S. § 15-901. The small school weight is funded jointly through the state General Fund and the Qualified Tax Rate (local property tax).

### **Fiscal Impact**

A fiscal note has been prepared on this bill. There is no anticipated fiscal impact to the state General Fund as a result of continuing the small school district adjustment in newly unified districts. The small school district adjustment is funded with a local property tax levy that does not qualify for the Homeowner's Rebate Program. There may be a potential local fiscal impact to all of the taxpayers in the newly unified school district as the continuation of the small school adjustment results in continued local property taxes to the school district taxpayers that previously qualified and a new tax burden to taxpayers in the school districts that did not qualify.

### **Provisions**

- Stipulates that a school district that has unified according to the SDRC's unification plan will become operational in the fiscal year that begins at least twelve months after the plan is approved.
- Permits a school district that has unified under the SDRC's unification plan to continue to budget for the small school adjustment for the first four fiscal years of operation if one of the school districts combined into the new school district previously qualified for the small school district adjustment.
- Specifies the small school district adjustment for qualifying districts that unified under the SDRC's unification plan as follows:
  - For the first year of operation, the sum of the amounts budgeted by all school districts that qualified in the fiscal year prior to voter approval unification.
  - For the second year, 75 percent of the amount budgeted in the first year.
  - For the third year, 50 percent of the amount budgeted in the first year.
  - For the fourth year, 25 percent of the amount budgeted in the first year.
- Requires the small school district adjustment to be funded by a levy on the primary property taxes in the new unified school district and exempts the portion of the primary tax rate attributable to the small school adjustment from the Additional State Aid Program.
- Makes technical and conforming changes.



# HOUSE OF REPRESENTATIVES

SB 1233

state procurement code; Arizona preference

Sponsor: Senator Waring

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DPA Committee on Government

W/D Committee on Commerce

X Caucus and COW

House Engrossed

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SB 1233, as Senate engrossed, gives preference to an Arizona bidder over a nonresident bidder in awarding procurement contracts.

**Effective January 1, 2009, the proposed strike-everything amendment to SB 1233 repeals Title 12, Chapter 9, Article 1, Arizona Revised Statutes, relating to Arbitration proceedings, and enacts the Revised Uniform Arbitration Act (RUAA) adopted by the National Conference of Commissioners on Uniform State Laws, with some exceptions.**

## History of Strike-everything Amendment

The National Conference of Commissioners on Uniform State Laws (NCCUSL) provides non-partisan, uniform legislation for state adoption in order to ensure uniformity and consistency in critical areas of the law. Uniform Law Commissioners are required to be lawyers who are qualified to practice law. According to the NCCUSL, commissioners are lawyer-legislators, private attorneys, state and federal judges, law professors, and legislative staff attorneys, who have been appointed by various state governments, the District of Columbia, Puerto Rico and the United States Virgin Islands, *to research, draft and promote enactment of uniform state laws in areas where uniformity is desirable and practical.*

Arbitration is an alternative dispute-resolution process conducted in lieu of a judicial proceeding. The use of arbitration has increased, and is now used for commercial, employment, personal injury, insurance and class action disputes. Arizona's Uniform Arbitration Act was first enacted in 1962, and has not been revised since that time.

A total of 49 states currently have arbitration statutes, and 13 states have adopted the revised version of the RUAA in order to update, modernize and provide uniformity in the laws state to state. Additionally, the legislation is presently being considered in 9 other states.

## Provisions of Strike-everything Amendment

- Repeals Title 12, Chapter 9, Article 1, Arizona Revised Statutes, relating to arbitration proceedings and replaces it with a revised uniform arbitration act. [Section 2 of bill]
- Dictates the necessary steps for providing and receiving proper *notice*. [§12-3002]

- Specifies applicability January 1, 2009, or before that date if the parties agree. [§12-3003]
- Exempts from the provisions of the bill: an arbitration agreement between an employer and employee; an insurance contract regulated by Title 20; a national banking association and any affiliate, subsidiary or holding company; and a federal arbitration agreement relating to securities or commodities. [§12-3003]
- Outlines the specific provisions and rights that cannot be waived in an arbitration agreement. [§12-3004]
- Requires an application for judicial relief be made through a motion to the court and heard in the manner provided by law or court rule. Outlines specific requirements. [§12-3005]
- Designates an official agreement to arbitrate a controversy as valid, enforceable and irrevocable except as prescribed by law or in equity for the revocation of a contract. The court must decide if an agreement to arbitrate exists or a controversy is subject to arbitration. The arbitrator must decide whether a contract containing a valid agreement to arbitrate is enforceable. If a party to a judicial proceeding challenges the existence of the agreement to arbitrate, or that the controversy is not subject to arbitration, then the proceeding to arbitrate continues pending final decision by the court. [§12-3006]

Motion to Compel or Stay Arbitration [§12-3007]

- On motion of a person showing an agreement to arbitrate and alleging another person's refusal, then the following apply: 1) if the refusing party fails to appear, or does not oppose the motion, the court shall order arbitration. 2) If the refusing party opposes the motion, the court shall decide the issue and require arbitration unless it finds there is no enforceable agreement.
- Without an agreement to arbitrate, on motion of a person alleging an arbitration proceeding has been initiated/threatened, requires the court to summarily decide the issue. If the court finds there is an enforceable agreement, then the court shall order arbitration.
- Stipulates that if the court finds there is no enforceable agreement to arbitrate, it may not order arbitration.
- Asserts that the court may not refuse to order arbitration because the claim subject to the arbitration lacks merit or grounds for the claim have not been established.
- Requires a motion to compel or stay arbitration to be made in the appropriate court, according to current law.
- If a party makes a motion to the court to order arbitration, requires the court to stay any associated judicial proceeding until the court renders a final decision regarding the motion.

Interim Remedies [§12-3008]

- Authorizes the court to order interim remedies to protect an arbitration proceeding before an arbitrator has been appointed, and is able to act. This must be for good cause shown, and under the same conditions as if the controversy was subject to a civil action.

- Stipulates and outlines the actions of the arbitrator after appointment with regard to interim remedies, which must be to the same extent and under the same conditions as if the controversy were subject to a civil action.
- States that a party does not waive a right of arbitration by making either of the aforementioned motions.

Initiation of Arbitration; Notice [§12-3009]

- Outlines the initiation of the arbitration proceeding by the person giving notice in a record to the other parties to the arbitration agreement; by certified mail, return receipt requested or by service as authorized for commencement of a civil action (if no arbitration agreement).
- Requires the notice to describe the nature of the controversy and the remedy sought.
- Prescribes that unless a person timely objects according to the specified requirements prior to the hearing, the person's presence at the hearing serves to waive any objection to lack of notice or insufficiency of notice.

Consolidation of Separate Arbitration Proceedings [§12-3010]

- Outlines the requirements for the court to order consolidation of some or all of the claims.
- Permits the court to order consolidation of separate arbitration proceedings for some claims, and allow others to be resolved in separate arbitration proceedings.
- Asserts the court may not order consolidation of claims if prohibited by the agreement.

Appointment of Arbitrator; Service as a Neutral Arbitrator [§12-3011]

- Stipulates the agreement for a method to appoint an arbitrator must be followed by the parties unless the method fails. On motion by a party to the proceeding, requires the court to appoint an arbitrator if there is no agreement for a method, if the method fails, or if an appointed arbitrator is unable to act or fails to act and a successor has not yet been appointed. An appointed arbitrator has all the powers of an arbitrator otherwise agreed to in an agreement.
- Outlines the persons who may not serve as an arbitrator due to known, direct, existing and material relationship with a party or interest in the outcome of the proceeding.

Disclosure by Arbitrator [§12-3012]

- Requires full disclosure to all pertinent parties to the agreement and proceeding to arbitrate, any and all known facts that a reasonable person would consider likely to affect the impartiality of the arbitrator with regard to the proceeding, including:
  - A financial or personal interest in the outcome.
  - An existing or former relationship with the parties, their counsel or representatives, a witness or another arbitrator.
- Mandates continued disclosure of the aforementioned facts that may affect the impartiality of the arbitrator.

- Outlines the necessary steps for a party to timely object to the appointment or continued service of an arbitrator, which may be a ground for vacating an award made by the arbitrator. Further, if an arbitrator does not disclose the required facts, on timely objection by a party, the court may vacate an award by the arbitrator.
- Stipulates that an arbitrator appointed as a neutral arbitrator who does not provide all proper disclosure is presumed to act with partiality. Requires substantial compliance with the procedures as a condition before filing a motion to vacate an award as outlined.
- If there is more than one arbitrator, requires a majority to make a decision. [§12-3013]

Immunity of Arbitrator; Competency to Testify; Attorney Fees / Litigation Expenses [§12-3014]

- Provides immunity from civil liability for arbitrators who act in their official capacity equivalent to that of court judges who act in their official capacity. This immunity provision supplements any other law of immunity.
- Stipulates that an arbitrator's failure to disclose any conflict of interest does not result in any loss of immunity.
- In any judicial, administrative or similar proceeding, states the arbitrator is not required to testify or submit records pertaining to statements, conduct, decisions or rulings of the arbitration proceeding to the same extent as a court judge who acts in an official judicial capacity. Outlines exceptions. Further, stipulates an award of reasonable attorney's fees and costs of litigation to the arbitrator upon a court finding that a person wrongfully filed the civil action against the arbitrator as outlined.

Arbitration Process [§12-3015]

- Permits the arbitrator to conduct the proceeding in a manner the arbitrator considers to be fair and expeditious. Outlines the arbitrator's authority, which includes the power to hold conferences with the parties before the hearing and determine admissibility, relevance, materiality and weight of evidence.
- Allows the arbitrator to decide a request for summary disposition of a claim or issue as outlined.
- Requires the arbitrator to set the hearing time and place, giving at least 5 days' advance notice before the hearing to all interested parties. Provides direction when a party to the proceeding objects, when there is cause to postpone, adjourn, or on request, for the court to direct the arbitrator to promptly conduct the hearing and render a timely decision.
- Establishes each party's right to be heard, to present material evidence and cross-examine witnesses appearing at the hearing.
- Prescribes the process when an arbitrator is unable to act and a replacement must be appointed in order to continue the proceeding and resolve the controversy.
- Prescribes the right for a party to an arbitration to be represented by a lawyer. [§12-3016]

Witnesses; Subpoenas; Depositions; Discovery [§12-3017]

The provisions of the bill authorize the Arbitrator to do all of the following, to the extent an Arizona court could allow if the controversy was the subject of a civil action:

- Issue subpoenas for the attendance of witnesses and production of records and other evidence. The subpoenas must be served in the same manner as a civil action.
- Permit a deposition of witnesses to be taken for use as evidence at the hearing in order to make the proceedings fair, expeditious and cost-effective, on request of a party to or a witness in arbitration.
- Allow discovery as the arbitrator deems appropriate under the circumstances as outlined. Further, authorizes a related protective order to prevent disclosure of privileged or confidential information, trade secrets and other information.
- Mandates that all laws compelling a person under subpoena to testify and all applicable fees for attending the judicial proceeding, a deposition or a discovery proceeding as a witness apply also to an arbitration proceeding. Outlines requirements when the arbitration proceeding involves out-of-state orders.
- Provides for the judicial enforcement of a preaward ruling by an arbitrator [§12-3018]

Award [§12-3019]

- Requires the arbitrator to make a record of the award. Outlines specific requirements, including providing a copy to each party to the proceeding.
- Mandates the award be made within the specified time period, or within the time ordered by the court. Outlines procedures for extending the timeframe, and for objections to the timeliness.

Change of Award by Arbitrator [§12-3020]

- On motion to an arbitrator by a party to the proceeding, permits the arbitrator to clarify the award, modify or correct the award due to mathematical miscalculations, evident mistakes or imperfections relative to form that do not affect the merits of the decision. Notice must be given to all parties within 20 days of the award when a motion is made as outlined. Any objection to the motion must be made within 10 days after receipt of the notice. Provides direction when a motion to the court is pending.

Remedies; Fees and Expenses of Arbitration Proceedings [§12-3021]

- Permits an arbitrator to award punitive damages or other relief if authorized in a civil action involving the same claim and if the evidence justifies the award under the legal standards that otherwise apply to the claim. The arbitrator must specify the basis for authorizing the award and separately state the amounts of the punitive damages and exemplary relief.

- Permits the arbitrator to award reasonable attorney's fees and other reasonable expenses of arbitration only if also authorized by law in a civil action involving the same claim or by agreement of the parties to the proceeding. Further, the arbitrator may order such other remedies as the arbitrator considers to be appropriate; the fact that such consideration would not be granted by the court is insufficient grounds for refusing to confirm an award or vacating an award.
- Directs the arbitrator's expenses and fees to be paid according to the dictates of the ward.

Confirmation of Award [§12-3022]

- Upon receiving notice of an award, permits a party to the arbitration proceeding to make a motion to the court for an order to confirm the award, and order the court to make that confirmation, unless the award is modified, corrected or vacated according to law.

Vacating Award [§12-3023]

- Directs the court to vacate an award made in an arbitration proceeding on motion to the court by any party to the proceeding as follows:
  - The award was procured by corruption, fraud or other undue means.
  - There was evident partiality by the arbitrator, corruption or misconduct by the arbitrator and as such, prejudiced the rights of a party to the proceeding.
  - The arbitrator refused to postpone the hearing on showing of sufficient cause, refused to consider material evidence or otherwise conducted the hearing contrary to law and substantially prejudiced the rights of a party to the proceeding.
  - The arbitrator exceeded the assigned powers.
  - There was no agreement to arbitrate.
  - The arbitration was conducted without proper notice as provided by law.
- Prescribes the 90-day timeframe for filing the appropriate motions and outlines the procedures for rehearing if the court vacates the award. Requires the court to confirm the award if it denies the motion to vacate the award, unless there is also a pending motion to modify or correct the award.

Modification or Correction of Award [§12-3024]

- On motion made within the required 90-day timeframes, requires the court to modify or correct the award as follows:
  - If there was an evident mathematical miscalculation or error in describing a person, thing or property.
  - The arbitrator made an award on a claim not submitted to the arbitrator and the award may be corrected without affecting the merits of the decision.
  - The form of the award is imperfect and does not affect the merits of the decision.
- If the motion to modify or correct is granted, the court shall confirm the award as modified or corrected, unless there is a pending motion to vacate the award.
- Permits a motion to modify or correct the award to be joined with a motion to vacate the award.

Judgment on Award: Attorney Fees and Litigation Expenses [§12-3025]

- Stipulates that on granting an order to vacate an award without directing a rehearing, confirming, modifying or correcting an award, the court shall enter a judgment conforming to the order. The judgment may be recorded, docketed and enforced as any other judgment in a civil action.
- Permits the court to allow reasonable costs of the motion and subsequent judicial proceedings.
- On application of a prevailing party to a contested judicial proceeding involving confirming, vacating, modifying or correcting an award, the court may add reasonable attorney fees and expenses of litigation incurred in a judicial proceeding after the award is made to a judgment vacating an award without directing a rehearing or confirming, modifying or correcting an award.

Miscellaneous

- Mandates an Arizona court having jurisdiction over a controversy and the associated parties may enforce an agreement to arbitrate. Additionally, stipulates an agreement to arbitrate confers exclusive jurisdiction on the court to enter a judgment on an award. [§12-3026]
- Stipulates the appropriate jurisdiction and venue for filing motions by all parties. [§12-3027]
- Requires the need for uniformity among the states that enact the legislation to be considered when applying the RUAA provisions. [§12-3028]
- Confirms the provisions governing the legal effect, validity and enforceability of electronic records and electronic signatures and their use conforms to the requirements of the federal Global and National Commerce Act. [§12-3029]
- Defines: *arbitration organization, arbitrator, court, knowledge, person, and record.* [§12-3001]
- Makes the provisions of the Act effective January 1, 2009, and stipulates that any arbitration proceedings commenced before that date are governed by the provisions of current law. [Session Law – Sections 6 and 7 of the bill]

Amendments

The Government Committee adopted the strike-everything amendment.





# HOUSE OF REPRESENTATIVES

SB 1150

radiologist assistants; licensure

Sponsor: Senator O'Halleran

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DPA Committee on Health

X Caucus and COW

House Engrossed

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SB 1150 creates licensure requirements for radiologist assistants under the Medical Radiologic Technology Board of Examiners (Board).

## History

The Board was created by Laws 1977, Chapter 145, § 10 as a division of the Arizona Radiation Regulatory Agency. The Board currently regulates radiologic technologists, who are defined as persons certified to apply ionizing radiation to individuals for general diagnostic or therapeutic purposes under the direction of a licensed practitioner, such as an allopathic or osteopathic physician. In addition to being at least eighteen years of age and of good moral character, radiologic technologists must complete education and training requirements as approved by the Board.

## Provisions

- Stipulates that, beginning January 1, 2009, a person who wishes to practice as a radiologist assistant must apply to the Board for a license on a form and in a manner as prescribed by the Board.
- Requires an applicant to produce the following evidence:
  - The applicant is at least eighteen years of age and is of good moral character.
  - The applicant holds a baccalaureate degree or post-baccalaureate certificate from an advanced academic program that encompasses a nationally recognized radiologist assistant curriculum that includes a radiologist-directed clinical preceptorship.
- Requires the Board to adopt rules that include the following:
  - Fees for issuing and renewing a license.
  - Procedures and grounds for denying an application.
  - Procedures and grounds for revoking or suspending a license and taking other disciplinary action against a licensee.
  - Continuing education requirements.
  - Any other requirements the Board considers appropriate to implement this section.
- Allows a licensed radiologist assistant to perform the following procedures under the direct supervision of a radiologist:
  - Perform fluoroscopic procedures.
  - Assess and evaluate the physiologic and psychological responsiveness of patients undergoing radiologic procedures.
  - Evaluate image quality, make initial image observations, and communicate observations to the supervising radiologist.

- Administer contrast media or other medications prescribed by the supervising radiologist.
- Perform any other procedures consistent with guidelines adopted by professional radiology organizations.
- Prohibits a licensed radiologist assistant from interpreting images, making diagnoses, or prescribing medications or therapies.
- Allows a supervising radiologist to authorize the radiologist assistant to perform only specified procedures.
- Stipulates that a supervising radiologist must be present at the location where the assistant performs the radiologic procedures to consult with the assistant and to direct the assistant's performance of the procedures.
  - Clarifies that a radiologist is not required to observe each radiologic procedure the assistant performs.
- Prohibits the following acts from being carried out by a person without a license:
  - Performing the radiologic procedures a licensed radiologist assistant is permitted to perform, unless a person is engaging in the scope of practice for which the person holds a valid license, or a person is performing a task as part of an advanced academic program.
  - Claiming to be a radiologist assistant, including using any sign, advertisement, card, letterhead, circular or other writing, document or design to induce others to believe the person is authorized to practice as a radiologist assistant.
- Establishes the Radiologist Assistants Fund (Fund) and requires the Board to administer the Fund.
  - Requires the Board to deposit ninety per cent of all money received in the Fund and the remaining ten per cent in the General Fund.
- Exempts the Board from rule making requirements for one year after the effective date of this act.
- Makes a conforming change.

**Amendments**

**Health:**

- Eliminates the requirement that an applicant for licensure have a baccalaureate degree or post-baccalaureate certificate.
- Strikes the requirement that a radiologist assistant be under the direct supervision of a radiologist at the radiologist assistant's practice location, but requires a radiologist be available to consult with the radiologist assistant.
- Allows the Board to adopt guidelines for other procedures radiologist assistants may perform.
- Eliminates the Fund.



# HOUSE OF REPRESENTATIVES

SB 1223

burden of proof; emergency treatment.

Sponsor: Senator Allen

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DPA

S/E Committee on Health

X Caucus and COW

House Engrossed

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SB 1223 raises the burden of proof in medical malpractice civil actions against health care providers and hospitals to clear and convincing evidence in connection with certain emergency medical services.

## **Summary of the proposed strike-everything amendment**

The proposed strike-everything amendment modifies the preexisting condition limitation periods for long term care insurance policies, and creates training requirements for licensed insurance producers related to long-term care insurance.

## **History**

Arizona Revised Statutes (A.R.S.) § 20-1691 defines *preexisting condition* as a condition for which medical treatment or advice was recommended by or received from a health care services provider within six months before the effective date of coverage of an insured person. Current statute stipulates that no preexisting condition limitation period for a long-term care insurance policy may exceed six months after the effective date of coverage for an insured who is sixty five years of age or older. Additionally, the preexisting condition limitation period may not exceed twenty-four months for an insured who is under sixty-five years of age.

A.R.S. § 20-281 defines *insurance producer* as a person required to be licensed to sell, solicit, or negotiate insurance.

A.R.S. § 20-2905 established the Continuing Education Review Committee (Committee) within the Department of Insurance (DOI) to create minimum standards that apply to continuing education courses.

## **Provisions**

### **Limitations on Long-Term Care Insurance Policies**

- Prohibits a preexisting condition limitation period in a long-term care insurance policy or certificate from exceeding six months after the effective date of coverage of an insured for whom medical advice or treatment was recommended by, or received from, a health care services provider.
- Strikes the existing requirements for preexisting condition limitation periods.
- Prohibits an individual long-term care insurance policy or certificate, other than a policy or certificate issued to a group, from excluding coverage for a loss or confinement that is the

result of a preexisting condition unless it begins within six months after the effective date of coverage.

- Defines *long-term care partnership program*.
- Applies the amended language to contracts, policies, and evidences of coverage that are issued from and after December 31, 2008.

#### **Insurance Producer Training Requirements**

- Restricts an individual from selling, soliciting, or negotiating long-term care insurance unless the individual:
  - Is licensed as an insurance producer for accident and health or sickness.
  - Has completed eight hours of initial long-term care training.
  - Has completed four hours of long-term care training in each two-year period following July 1, 2009, after the two-year period within which the individual completed the initial long-term care training.
- Specifies that an individual may only satisfy the training requirements by completing an approved continuing education course that is offered by an approved provider.
- Requires the training course to consist of topics related to long-term care insurance, long-term care services and, if applicable, qualified state long-term care insurance partnership programs consistent with the standards developed by the Committee, including the following:
  - State and federal rules and requirements and the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including Medicaid.
  - Available long-term care services and long-term care service providers.
  - Changes or improvements in long-term care services or long-term care service providers.
  - Alternatives to the purchase of private long-term care insurance.
  - The effect of inflation on benefits and the importance of inflation protection.
  - Consumer suitability standards and guidelines.
- Requires an insurer to obtain verification that an insurance producer has met the training requirements before the insurance producer is permitted to sell, solicit, or negotiate the insurer's long-term care products.
- Indicates a long-term care insurer shall maintain and make available to the Director of the DOI sufficient records on the training of insurance producers to allow the DOI to provide assurance to the Arizona Health Care Cost Containment System that the insurance producers have received the required training.
- Stipulates that a nonresident insurance producer's satisfaction of substantially similar long-term care training requirements of any other state satisfies the nonresident insurance producer's long-term care training requirements for Arizona.
- Delays the effective date until June 30, 2009.

#### **Amendments**

##### **Health:**

- The strike-everything amendment was adopted.



# HOUSE OF REPRESENTATIVES

SB1282

adult adoption

Sponsor: Senator Miranda

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**DP** Committee on Human Services

**W/D** Committee on Judiciary

**X** Caucus and COW

House Engrossed

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SB 1282 allows an adult to adopt another adult who is at least eighteen but no more than twenty-one years of age if the adult being adopted gives consent.

## **History**

Arizona law currently allows an adult to adopt another adult who is a stepchild, niece, nephew, cousin or grandchild of the adopting person. Additionally, a foster parent may adopt an adult who was formerly in his or her care as a foster child if the foster parent has maintained a continuous familial relationship for at least five years with the person.

A petition for adult adoption must include the length and nature of the relationship between the person seeking to adopt and the proposed adoptee, the status and degree of kinship, the reason the adoption is sought, why the adoption is in the parties' best interests and whether the person or spouse of the person seeking to adopt has previously adopted any other adult person. The adoption is finalized by a decree of adoption made by the court in the county in which either the adopting person or the adoptee resides.

## **Provisions**

- Enables an adult to adopt another adult who is at least eighteen years old and no more than twenty-one years of age if the person being adopted consents to the adoption.
- Makes technical changes.



# HOUSE OF REPRESENTATIVES

SB 1440

child dependency cases; performance standards

Sponsor: Senator Landrum Taylor

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**DP** Committee on Human Services

**X** Caucus and COW

House Engrossed

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SB 1440 instructs the Administrative Office of the Courts (AOC) to establish, review and report on judicial performance standards for courts that manage child dependency cases.

## **History**

When a child is removed from the home as a result of allegations of child abuse or neglect, current statute requires the court to conduct dependency and related hearings within specified timeframes. For example, the court must hold an initial dependency hearing within twenty-one days of filing of a dependency petition, unless service by publication is required. Dependency adjudication hearings must be completed within ninety days after the dependency petition is served, unless there is a court order for in-home intervention. A thirty day extension is available if good cause is shown or extraordinary circumstances occur (A.R.S. §8-842). After the dependency adjudication hearing, a disposition hearing must occur, and may be held the same day but no later than thirty days following adjudication (A.R.S. §8-844). The court is also required to conduct a permanency hearing within thirty days after the disposition hearing if reunification is not ordered (A.R.S. §8-862).

In contested dependency cases, all contesting parties must participate in a court-ordered mediation, settlement conference or pretrial conference. The court considers mitigating factors such as the availability of reunification services available to the parents and the parent's ability to participate in such services. If a parent fails to attend a pretrial conference, settlement conference or dependency adjudication hearing, their absence can be deemed an admission of the allegations and the court may make a determination of dependency and disposition contingent upon the evidence presented.

## **Provisions**

- Enacts session law mandating the Administrative Office of the Courts (AOC) to develop judicial performance standards by December 31, 2008 for courts that handle child dependency cases.
- Requires the AOC to review the implementation of the standards and their impact on the management of child dependency cases by December 31, 2009.
- Directs the AOC to submit a report of its findings and recommendations to the Governor, the President of the Senate and the Speaker of the House of Representatives by February 1, 2010.
- Contains a delayed repeal date of September 30, 2011.



# HOUSE OF REPRESENTATIVES

SB 1162

elections; registration information.

Sponsor: Senator Gray C

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**DPA**

**S/E** Committee on Judiciary

**X** Caucus and COW

House Engrossed

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SB 1162 removes the unique identifying numbers given to registered voters from the list of information contained in voter registration records that is precluded from public inspection at the offices of county recorders.

## **Summary of the proposed strike-everything amendment to SB 1162**

### **History**

Title 33, Chapters 9 and 16 of the Arizona Revised Statutes (A.R.S), outline the regulatory requirements for the management of Condominiums and Planned Communities (single-family homes) respectively, and are commonly known as homeowners' associations (HOAs). The codes, covenants and restrictions provide direction to the HOA, and a board of directors (Board) duly elected by the membership varies accordingly. Statute requires the Board to manage the activities of the HOA including adopting and amending bylaws/rules, requirements for casting votes, holding open meetings, hiring and discharging managing agents and imposing and receiving fees, fines and assessments. The HOA's Board is responsible for maintenance, repair and replacement of the common elements within the association, as well as imposing penalties for violations of bylaws and rules.

### **Provisions**

- Stipulates that an amendment to the condominium or community documents does not apply to any court or administrative action filed before the amendment is adopted.
- Prohibits an administrative law judge (ALJ) and a court (in any appeal from an administrative order) from awarding attorney fees or costs in an action regarding a condominium or planned community unless the ALJ or court makes a finding that the attorney or party did any of the following:
  1. Brought or defended a claim without substantial justification.
  2. Brought or defended a claim solely or primarily for delay or harassment.
  3. Unreasonably expanded or delayed the proceeding.
  4. Engaged in abuse of discover.
- Allows, if the ALJ or court makes a finding, the ALJ or court to:
  1. Allocate the payment of attorney fees among the offending attorneys and parties and assess separate amounts against an offending attorney or party; and
  2. In its discretion, award double damages not to exceed \$5000 against an attorney or a party.

## **SB 1162**

- Prohibits attorney fees from being assessed if after filing an action, a voluntary dismissal is filed for any claim or defense within a reasonable time after the attorney or party filing the dismissal knew or reasonably should have known that the claim or defense was without substantial justification.
- Defines *without substantial justification*.
- Makes a technical change.

### **Amendment**

#### **Judiciary**

- The strike-everything amendment was adopted.





# HOUSE OF REPRESENTATIVES

## SB 1355

attempted dangerous crimes against children

Sponsors: Senators Pesquiera, Aguirre, Burton Cahill, et al.

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**DP** Committee on Judiciary

**X** Caucus and COW

House Engrossed

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SB 1355 adds certain preparatory offenses committed against minors who are under 12 years of age to the list of Dangerous Crimes Against Children in the second degree that are classified as Class 3 felonies with enhanced sentencing.

### History

A.R.S. § 13-604.01 defines *Dangerous Crime Against Children* (DCAC) and prescribes enhanced sentencing for certain crimes committed against victims who are under 15 years old. A DCAC is in the first degree if it is a completed offense and is in the second degree if it is a preparatory offense (except that attempted first degree murder is a DCAC in the first degree).

In *State v. Gonzalez* (216 Ariz. 11, 162 P.3d 650), the Arizona Court of Appeals granted post-conviction relief to Francisco Gonzalez, Jr., who had been convicted for attempted sexual conduct with a minor who was under the age of 15 at the time of the offense. The court held that the sentence imposed on Gonzalez was illegal under § 13-604.01 because “the plain language of § 13-604.01 does not encompass attempted sexual conduct with a victim under the age of twelve.” Therefore, the court ordered that Gonzalez receive a new hearing to establish the victim’s age. If the victim was eleven years old, as Gonzalez maintained, the court will resentence Gonzalez under normal sentencing statutes (A.R.S. §§ 13-701 and 13-702).

### Provisions

- Adds preparatory offenses involving any of the following crimes committed against a minor under 12 years of age to the list of Dangerous Crimes Against Children in the second degree that are classified as Class 3 felonies with presumptive terms of incarceration of 10 years:
  1. Second degree murder;
  2. Sexual assault of a minor;
  3. Sexual conduct with a minor; and
  4. Manufacturing methamphetamine under circumstances that cause physical injury to a minor.
- Makes technical changes.



# HOUSE OF REPRESENTATIVES

## SCR 1042

Vietnam Veterans' Memorial Day

Sponsors: Senators Gould, Harper, Representative Groe

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**DPA**

**S/E** Committee on Judiciary

**X** Caucus and COW

House Engrossed

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SCR 1042 proclaims March 29 as Vietnam Veterans' Day in Arizona.

### **Summary of the proposed strike-everything amendment to SCR 1042**

#### **History**

Laws 1996, Chapter 348 stipulates that marriage between persons of the same sex is void and prohibited. Marriages that are considered void and prohibited in Arizona that are solemnized in another state or county are also not valid in Arizona. A.R.S. § 25-112 also specifies that parties residing in Arizona may not evade the laws of Arizona relating to marriage by going to another state or country for solemnization of the marriage.

#### **Provisions**

- States that only a union of one man and one woman must be valid or recognized as a marriage in Arizona

#### **Amendment**

##### **Judiciary**

- The strike-everything amendment was adopted.



# HOUSE OF REPRESENTATIVES

SB1489

divestments; terrorism countries; contract prohibition

Sponsors: Senators Verschoor, Bee, Gray L, et al

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**DP** Committee on Public Institutions and Retirement

**DP** Committee on Appropriations

**X** Caucus and COW

House Engrossed

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SB1489 repeals the section of statute pertaining to the required annual submission of global security risk report by Public Funds to the State Legislature and requires the State Board of Investment, ASRS, and the Fund Manager of PSPRS to divest from all companies in violation of the Export Administration Act of 1979 and establishes procedures for reporting any divestments.

## History

### ***Public Funds***

Established in 1953, the Arizona State Retirement System (ASRS) provides retirement, long-term disability, and other benefits to over 487,000 employees of the state, counties, municipalities, universities and other political entities. Governed by statute, ASRS is managed by a nine-member board of trustees who are statutorily charged to "...[a]llocate assets to meet the investment goals, objectives and policies it prescribes." As of June 2006, the market value of the ASRS fund was approximately \$24 billion, 18% of which was comprised of international stocks.

Established in 1968, the Public Safety Personnel Retirement System (PSPRS) is responsible for managing the statewide retirement programs for state, county, and municipal personnel. PSPRS also administers two additional retirement plans consisting of the Corrections Officers Retirement Plan (CORP), and the Elected Officials Retirement Plan (EORP). The plans are managed separately by a five-member board of trustees who are statutorily charged "...to invest and reinvest, alter and change monies accumulated under the system." Of the \$6.9 billion of the fund's current assets, approximately 3% is invested in non-U.S. equities.

The Arizona State Treasurer provides custodial, management, and oversight of taxpayer monies. The State Treasurer is the State's Bank and fiduciary agent, providing investment management, financial information and services for taxpayers to the state and local governments. According to the Fiscal Year 2007 Annual Report, 2007 ended with a combined total of investments fair market valued at \$12 billion and total net earnings on those investments was more than \$732 million.

Statutes enacted by the Arizona State Legislature require that each Public Fund make investments in accordance with the "Prudent Expert" rule which stands for the principle that a fiduciary must invest in only those securities or portfolios of securities that a reasonable person would buy.

***Current state and federal law***

Under current law, the State Treasurer, ASRS, and the Fund Manager of PSPRS have been reporting since 2006 those U.S. companies held in the fund that have business activities in Iran, North Korea, Sudan, or Syria, and the amount of those investments. Overall, the report identifies the total equities and debt security assets being held by the ASRS of those companies that have been identified as having possible business ties to one or more of the countries designated by the U.S. State Department both as state sponsors of terrorism and are actively pursuing or capable of producing weapons of mass destruction.

On the federal level, the Export Administration Act of 1979 (EAA), which was written and amended during the Cold War, focuses on the regulation of exports of those civilian goods and technology that have military applications (dual-use items). The following kinds of activities are subject to the Export Administration Regulations (EAR): (a) Certain activities of U.S. persons related to the proliferation of nuclear explosive devices, chemical or biological weapons, missile technology as described in § 744.6 of the EAR, and the proliferation of chemical weapons as described in part 745 of the EAR; (b) activities of U.S. or foreign persons prohibited by any order issued under the EAR; and (c) technical assistance by U.S. persons with respect to encryption commodities or software as described in § 744.9 of the EAR.

**Provisions**

- Repeals the section of statute pertaining to the required annual submission of global security risk report by Public Funds to the State Legislature.
- Requires the State Board of Investment, ASRS, and the Fund Manager of PSPRS to adopt a policy with regard to the countries currently designated by the U.S. State Department as State sponsors of terrorism.
- Requires that the policy include the following:
  - The procedure to identify United States companies that are in violation of Section 6(j) of the Export Administration Act (Identified Companies).
  - The process for communicating with those Identified Companies as well as the appropriate federal officials, including this State's Congressional delegation, in regard to its finding.
  - The process for divesting from the Identified Companies.
- Requires the State Board of Investment, ASRS, and the Fund Manager of PSPRS to divest from all Identified Companies.
- Requires the State Treasurer, ASRS and the Fund Manager of PSPRS to notify the Governor, President of the Senate, the Speaker of the House of Representatives and the Director of the Department of Administration (DOA) of all divestments and the reasons for the divestments.
- Prohibits state from purchasing or renewing a contract to purchase any product or service from any company on the list until the company is no longer on the list.
- Requires the Director of DOA to notify any company of the prohibition to procure within 14 days of receiving the divestment notice.
- Requires the State Treasurer, ASRS and the Fund Manager of PSPRS to submit a copy of the policy adopted to the President of the Senate and the Speaker of the House of Representatives.
- Authorizes a non-lapsing appropriation in the amount of \$60,000 from the administration account to ASRS.



# HOUSE OF REPRESENTATIVES

SB 1168

department of agriculture omnibus act

Sponsors: Senators Arzberger, Aguirre, Landrum Taylor, et al

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**DP** Committee on Water and Agriculture

**X** Caucus and COW

House Engrossed

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SB 1168 addresses the procedures for handling seized and stray livestock and modifies the use of commercial fertilizer inspection fees.

## History

The Arizona Department of Agriculture consists of three divisions. The Animal Services Division is responsible for milk, dairy, livestock and aquaculture regulation, the state veterinarian, meat, poultry and egg inspection and performing the administrative functions related to the Arizona Beef Council. The Plant Industries Division is responsible for the fruit and vegetable standardization program and entomological services. The Environmental Services Division is responsible for regulating seed, feed and agricultural chemicals, including pesticides and fertilizers, and for native plant protection. The Department also includes the State Agricultural Laboratory, the Office of Agriculture Safety, the Office of Inspections and the Office of Commodity Development and Promotion. (ARS 3-102)

Department of Agriculture livestock officers are authorized to seize livestock if ownership of the animal is questioned or in cases of abuse or neglect. The Department is required to provide care for a period of 15 days. Current law outlines the requirements for holding an animal that has been seized and for scheduling and conducting a hearing to determine ownership. If an owner is not found, the livestock may be sold at public auction.

Current law provides for an inspection fee of \$0.20 per ton on commercial fertilizers distributed within Arizona. The monies are paid to the Department and pay for the cost of inspection, sampling, analysis and other necessary expenses relating to commercial fertilizer. SB 1168 allows the Department to use a portion of the fees for research and education programs to advance the environmentally safe use and handling of fertilizer.

## Provisions

### **Commercial Fertilizer Fees**

- Allows the inspection fee collected for commercial fertilizers to be used for grants to conduct research and education projects that are related to use and handling of fertilizer material. Current law allows the fee to be used for inspections, sampling, analysis and other administrative expenses.
- Exempts grants awarded for fertilizer research from the competitive grant solicitation requirements outlined in statute (ARS 41-2701 et. seq.).

**Hearings for License Suspension or Revocation**

- Modifies the hearing requirements related to suspension, revocation or termination of a license. Current law requires a hearing to be conducted before an administrative action can be taken. SB 1168 requires “an opportunity for a hearing” instead.

**Seized Livestock**

- Eliminates the requirement to keep seized livestock for 15 days and allows the Department to recover the expenses related to the animal’s care.
- Modifies the requirement related to posting a notice of sale for seized livestock. Rather than posting notice 10 days after the livestock has been seized, the Department must post notice 5 days prior to the sale.
- Provides that a summons, rather than a citation, will be used when determining ownership of livestock that has been seized.

**Stray Animals**

- Allows a person who finds a stray animal to attempt to locate and notify the owner. If the owner cannot be located or the person chooses not to locate the owner the person must notify the Department.
- Reduces the minimum amount of time stray animals must be held by the Department from 14 days to 7. If requested by a person or organization, the animal will be held for up to 14 days.

**Miscellaneous**

- Makes technical and conforming changes.